HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:16878 OF 2007

Dated:09.08.2007

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Between:

1. The Government of A.P., rep., by its secretary,
PR & RD Department, Secretariat, Hyderabad and others.

..Petitioners

And

J. Chittibabu

..Respondent.

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
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ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioners challenging the order of the Tribunal dated 22.12.2006 in O.A.No.2883 of 2006.

The respondent herein is the applicant before the Tribunal. He filed the O.A., seeking to call for the records leading up to and inclusive of the G.O.Rt.No.1344, PR and RD (Vig.II) Department, dated 21.7.2005 and set aside the same and consequently, to direct the respondents to pay all the retrial benefits including with held amounts immediately.

It is the case of the applicant that he retired from service on 28.2.2002 on superannuation and as he was not being paid his retrial benefits, he made a representation to the authorities, requesting them to release his retrial benefits, but surprisingly, a charge memo dated 13.11.2003 was received by him on 12.3.2004 on the allegation that he made excess payment of Rs.83,682/- to a Contractor, contrary to Rule 9(2)(b)(i) and (ii) of A.P. Revised Pension Rules. On his representation, the Lok Ayukta directed the respondents to release all his pensionary benefits by withholding an amount of Rs.2,61,691/- on the ground that the disciplinary proceedings are pending against him.

The Tribunal having observed that the charges are barred by limitation as the respondents intend to enquire into an allegation pertaining to the year 1999-2000, after a period of four years and therefore, the respondents are deprived of any power to proceed against the applicant in view of the embargo contained in Rule 9(2)(b)(i) and (ii) of the A.P. Revised Pension Rules, allowed the O.A., setting aside the impugned order therein and directed the respondents-authorities to release all the retrial benefits of the applicant. Having aggrieved by the same, the respondents-authorities preferred the present writ petition.

Heard and perused the material available on record.

The learned Government Pleader contended that the proceedings against the applicant are in accordance with Rule 9(7) of Revised Pension Rules 1990 and that Rule 9(7) is distinct and different from Rule 9(2) of Revised Pension Rules, 1980 and no such time limit is prescribed under Rule 9(7) of A.P. Revised Pension Rules for the recovery of pecuniary loss and therefore, the tribunal is not justified in setting aside the proceedings impugned therein and hence, the order of the tribunal is liable to be set aside.

Before going to deal with the case on hand, it is pertinent to note that the authorities relied upon enactment of G.O.No.994, dated 21.12.2002 and the said enactment has come into force from 21.12.2002 and the applicant retired from service on 28.2.2002 and the above amended pension rules do not contain any mention of the persons who retired from service prior to the amendment. In the absence of any such provision as to the persons retired from service prior to the said enactment to the pension rules under G.O.No.994, and in view of the findings of the tribunal as to the expiry of limitation of the charges in question, it cannot be said that the department has got a right to withheld the retiral benefits by invoking Rule 9(2)(b) of the Pension Rules. The order of the tribunal further goes to show that the department themselves have agreed that on the allegations pertaining to the year 1999-2000, the charge memo was issued after a period of four years. In view of the foregoing discussion and in view of the categorical finding of the tribunal that the charges are barred by limitation, we concur with the findings of the tribunal and the writ petition is liable to be dismissed.

In the result, the Writ Petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 9th August, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:16878 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

9/08/2007